

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**SAMUEL C. ROARK,**

**Plaintiff,**

**v.**

**CASE NO. 20-3267-SAC**

**DONALD ASH, et. al,**

**Defendants.**

**ORDER**

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. On October 28, 2020, the Court entered a Notice of Deficiency (Doc. 3), directing Plaintiff to submit his Complaint on court-approved forms and to either pay the filing fee or file a motion to proceed without payment of fees. The deadline for Plaintiff to correct the deficiencies was November 27, 2020. The Notice of Deficiency provides that “[i]f you fail to comply within the prescribed time, the Judge presiding over your case will be notified of your non-compliance, and this action may be dismissed without further notice for failure to comply with this court order.” (Doc. 3, at 1–2.) Plaintiff has failed to comply with the Court’s order.

Rule 41(b) of the Federal Rules of Civil Procedure “authorizes a district court, upon a defendant’s motion, to order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or ‘a court order.’” *Young v. U.S.*, 316 F. App’x 764, 771 (10th Cir. 2009) (citing Fed. R. Civ. P. 41(b)). “This rule has been interpreted as permitting district courts to dismiss actions *sua sponte* when one of these conditions is met.” *Id.* (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)). “In addition, it is well established in this circuit that a district court is

not obligated to follow any particular procedures when dismissing an action *without prejudice* under Rule 41(b).” *Young*, 316 F. App’x at 771–72 (citations omitted).

Plaintiff has failed to comply with the Court’s order by the deadline. Therefore, this case is dismissed without prejudice pursuant to Rule 41(b).

**IT IS THEREFORE ORDERED THAT** this action is **dismissed without prejudice** pursuant to Rule 41(b) for failure to comply with court orders.

**IT IS FURTHER ORDERED THAT** Plaintiff’s motion for issuance of summons (Doc. 2) is **denied as moot**.

**IT IS SO ORDERED.**

**Dated December 7, 2020, in Topeka, Kansas.**

s/ Sam A. Crow  
**Sam A. Crow**  
**U.S. Senior District Judge**